

**TRANSPORTATION RULES
OF
GEORGIA PUBLIC SERVICE COMMISSION**

CHAPTER 10: CIVIL PENALTIES

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10-1.1 Applicability, including purpose.

The purpose of these regulations is to enable the Commission to determine whether any motor carrier or other persons subject to the jurisdiction of the Commission has failed to comply with any provision or requirement of laws or regulations issued thereunder. If such violation(s) is (are) found, the Commission will issue an appropriate order to compel compliance with the law or regulations, assess a civil penalty, or both.

10-1.3 Definitions.

As used in this Chapter, the term—

Consent Order means an order voluntarily entered into between a Respondent and the Commission's designated representative for purposes of resolving allegations that the Respondent violated Commission laws, rules and/or the Federal Motor Carrier Safety Regulations.

Motor Carrier Safety Regulations mean any safety or hazardous material regulations that have been promulgated by the Commission pursuant to Chapters 4 and 9 of the Commission's Transportation Rules.

Notice of Hearing means the official documentation issued by the Commission's Transportation Division to a Respondent in which allegations are made that the Respondent has violated Commission laws, rules and/or the Federal Motor Carrier Safety Regulations.

Transportation Division means the Transportation Division of the Georgia Public Service Commission.

10-1.6 Commission Authority.

Consistent with O.C.G.A. §§40-8-2, 46-1-1(7)(C)(x) and (13)(A), 46-2-91, 46-2-94(a), 46-7-2, 46-7-26, 46-7-27, 46-7-37, 46-7-85.1 *et seq.*, and 46-11-1 *et seq.*, the Commission is authorized to create and establish regulations detailing the procedures that will be employed when its Transportation Division determines that a motor carrier or other person(s) has (have) committed safety, fitness or other regulatory violations.

10-2.1 Reporting of Violations.

Any person having statutory authority to take enforcement action with respect to a violation of one or more of the Commission's laws, rules and/or the Federal Motor Carrier Safety or Hazardous Material Regulations may transmit a report of the violation to the Staff of the Transportation Division. The report shall be made on forms produced by the Commission or shall be set forth or contain substantially the same information called for on such forms. Whenever practicable, the report should include any documentary, photographic or other evidence which has been collected regarding the violation.

10-2.2 Notice of Hearing.

(a) A Notice of hearing setting forth alleged violations of the Commission's laws and rules and/or Motor Carrier Safety and Hazardous Material Regulations shall be served upon the Respondent in person or by certified mail, return receipt requested and, where appropriate, shall specify any procedures available to the Respondent to resolve pending allegations on an informal basis.

(b) At a minimum, the Notice of Hearing shall include:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing will be held;

(3) A reference to the particular section of the statutes and rules involved;

(4) A short and plain statement of the matters asserted. In the event the Commission Staff is unable to state the matters in detail at the time, the Notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished; and

(5) Notice of the amount being claimed, and notice of the maximum amount authorized to be claimed under O.C.G.A. §46-2-91;

(6) A statement as to the right of any party to subpoena witnesses and documentary evidence through the agency.

(7) The name and telephone number of the appropriate Unit Director of the Commission's Transportation Division as the point of contact for any request to settle.

(c) Opportunity shall be afforded all parties to be represented by legal counsel at their own expense and to respond and present evidence on all issues involved.

(d) Informal disposition of the matters alleged in a Notice of Hearing may be made by settlement agreement or consent order.

(e) The Commission may delegate to a hearing officer any of its authority to preside over any matter brought pursuant to these rules. The hearing officer shall be authorized to conduct a hearing and perform any functions related thereto. Decisions of such hearing officers shall have the same effect as decisions of the Commission; provided however that any party to a proceeding who is aggrieved by a decision of the hearing officer shall have the right of appeal from such decision. Such appeal must be made in writing and filed with the appropriate Unit Director of the Commission's Transportation Division within ten days after its receipt. Such appeals will be handled in accordance with Commission Transportation Rule 2-1.8.

(f) In proceedings for collection of civil penalties for violations of the Commission's laws and rules and/or Motor Carrier Safety and Hazardous Materials Regulations, the Commission may require the carrier to post notice of hearing in such place or places and for a specified duration as may be determined appropriate to aid in the enforcement of laws or regulations.

10-2.3 Consent Agreement in Lieu of Formal Hearing.

(a) Where appropriate, consent agreements may be arrived at by considering the nature, circumstances, extent, and gravity of the violation(s) alleged and, with respect to the Respondent, the degree of culpability, history of prior offenses, ability to pay based on carrier's size, gross revenues and other resources, and willingness to comply with laws and rules and such other matters as is deemed appropriate.

(b) Consent agreement may include, but are not limited to, provisions specifying civil penalties; additional training or education; the purchase of equipment or materials to aid in compliance; submission of documentation as evidence of compliance; and an agreement to cease and desist from practices that are not consistent with public safety and welfare.

(c) Any informal consent agreement that may be reached by the Transportation Division and the Respondent shall not be effective unless and until it is accepted by the Commission. In the event that the Commission does not accept a proposed Consent Agreement, no statement made therein shall be deemed admissible in a subsequent hearing.

10-2.4 Respondent's Failure to Appear at Hearing.

A Respondent's failure to appear at the hearing shall constitute a waiver of the Respondent's right to contest the alleged violation(s) made in the Notice of Hearing. The Commission or its designee shall be authorized, without further notice or hearing, to make findings and may forthwith order the imposition of sanctions, including the assessment of an appropriate civil penalty.

10-2.5 Enforcement of Commission Order.

If, within 30 days after the service of an order assessing civil penalties and other sanctions, the Respondent has failed to pay the assessed civil penalty and take the corrective action contemplated by the Commission or has failed to file an appeal and obtain a stay as contemplated in O.C.G.A. §46-2-91(c), the case shall be referred to the Attorney General's Office with a request that an appropriate action to collect the penalty and interest be brought in Fulton County Superior Court.

10-2.6 Payment of Civil Penalties.

(a) Civil penalties shall be paid by certified check, cashier's check or money order made payable to the Georgia Public Service Commission, and shall be mailed or delivered to:

Director, Transportation Division
Georgia Public Service Commission
Transportation Division
1007 Virginia Avenue, Suite 310
Hapeville, Georgia 30354

The instrument of payment shall contain the identifying case number for which payment is being tendered. Payment is complete upon receipt by the staff of the total amount of assessment.

(b) If the only remedy requested with respect to a violation is payment of a civil penalty, full payment under these circumstances constitutes an admission of the occurrence of the violation for purposes of consideration of a respondent's history of violations in determining the appropriate remedy for any future violation(s).